

ESTTA Tracking number: **ESTTA512184**

Filing date: **12/20/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	YS Garments, Inc.		
Entity	Corporation	Citizenship	California
Address	3128 Harcourt Street Rancho Dominguez, CA 90221 UNITED STATES		

Attorney information	Jessie K. Reider, CA Bar No. 237,113 Buchalter Nemer, APC 1000 Wilshire Blvd., Suite 1500 Los Angeles, CA 90017 UNITED STATES trademark@buchalter.com, jreider@buchalter.com Phone:2138915031
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Registration Subject to Cancellation

Registration No	3503550	Registration date	09/23/2008
Registrant	Next Level Sportsystems, Inc. 26 Erica Drive Langhorne, PA 19047 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 1998/09/00 First Use In Commerce: 1998/09/00 All goods and services in the class are cancelled, namely: Athletic footwear; Bathing suits; Cleats for attachment to sports shoes; Footwear; Footwear for men and women; Gloves; Golf cleats; Golf spikes; Gym suits; Headwear; Jackets; Jogging suits; Ladies' suits; Men's suits; Mittens; Pants; Rainproof jackets; Shorts; Skirts; Socks; Sport coats; Sports shirts; Sports shirts with short sleeves; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; T-shirts; Tights; Tops; Track suits; Training suits; Trousers; Underwear; Unitards; Vests; Waist belts; Warm up suits; Waterproof jackets and pants

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition for Cancellation Next Level.pdf (3 pages)(9685 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jkr/
Name	Jessie K. Reider, CA Bar No. 237,113
Date	12/20/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No. 3503550
For the NEXT LEVEL Mark
Registered on September 23, 2008

YS Garments, Inc.,)	
)	
Petitioner,)	
)	Cancellation No. _____
v.)	
)	
Next Level Sportsystems, Inc.)	
and)	
Sierra Sportswear, Inc.)	
Registrants.)	
_____)	

PETITION FOR CANCELLATION

YS Garments, Inc., a corporation organized under the laws of the state of California, having a principal place of business of 3128 Harcourt St., Rancho Dominguez, California 90221 (hereinafter “Petitioner” or “YS”) believes that it will be damaged by the continued registration of the above identified trademark registration (hereinafter “Registration”) in the name of Next Level Sportsystems, Inc., a Pennsylvania corporation with an address of 26 Erica Drive, Langhorne, Pennsylvania 19047 (“NLS”) and Sierra Sportswear, Inc., a New York corporation with an address of 1384 Broadway, Suite 1400, New York, New York 10036 (“Sierra” and collectively with NLS, “Registrant”) and hereby petitions to cancel same.

1. On June 22, 2009, Petitioner applied to register its trademark NEXT LEVEL APPAREL and DESIGN, Serial No. 77765582.
2. The application was refused on September 26, 2009 based on a contention the Petitioner’s NEXT LEVEL APPAREL and DESIGN mark was likely to cause confusion with a prior registration.
3. Petitioner uses the NEXT LEVEL APPAREL and DESIGN mark in commerce in the United States and has used the mark in commerce in the United States since as early as 2003.

4. The registration cited against Petitioner's NEXT LEVEL APPAREL and DESIGN mark was the Registration, in the name of the Registrant.

5. Petitioner has performed a search of publicly available resources to determine whether Registrant is currently using the NEXT LEVEL mark. Upon information and belief, Registrant has ceased use of the mark shown in the Registration in connection with the goods identified therein, with the intent not to resume use.

6. Because the Registration has been abandoned, Petitioner is entitled to cancellation of the Registration pursuant to §14(3) of the United States Trademark Act, 15 U.S.C. §1064(3).

7. Petitioner will be damaged by the continued registration of the mark shown in the Registration because such continued registration may prevent Petitioner from registering its own mark(s).

WHEREFORE, Petitioner prays for judgment granting this petition and canceling Registration No. 3503550.

Please direct all correspondence and communications in this cancellation to the undersigned. The Patent and Trademark Office is authorized to charge the filing fee to Deposit Account No. 500977.

Respectfully Submitted,
YS Garments, Inc.

Dated: December 20, 2012

By:____/jkr/_____
Buchalter Nemer, a Professional Law Corporation
Jessie K. Reider, California Bar No. 237,113
1000 Wilshire Blvd., Suite 1500
Los Angeles, California 90017
trademark@buchalter.com
Attorney for the Petitioner

Proof of Service

I hereby certify that a true and correct copy of the instant **PETITION FOR CANCELLATION** has been served on the registrants, Next Level Sportsystems, Inc. and Sierra Sportswear, Inc. at the addresses of record for the instant proceeding. Copies of the instant Petition was sent via First Class mail, postage pre-paid, on December 20, 2012 to:

Sierra Sportswear, Inc.
1384 Broadway
Suite 1400
New York, New York 10036

Next Level Sportsystems, Inc.
26 Erica Drive
Langhorne, Pennsylvania 19047

By: /jkr/
Jessie K. Reider